

PTO/SB/61 (11-03)

Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)****Docket Number (Optional)**  
10-342

First named inventor: George Kovar.

Art Unit: 2633

Application Number: 09/898,379

Examiner: D. Tran

Filed: 07/05/2001

Title: Optical Modulator and Method for Polarization Bit Interleaving

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

- ☐ small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ other than small entity - fee \$ \$500.00 (37 CFR 1.17(l)).

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of  
Amendment (identify the type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☒ is enclosed herewith.

- B. The issue fee and publication fee of \$ \_\_\_\_\_

- ☐ has been filed previously on \_\_\_\_\_
- ☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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## **3. Terminal disclaimer with disclaimer fee**

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

February 2, 2005  
Date

  
Signature

(703) 838-7683  
Telephone Number

Randy W Lacasse  
Typed or printed name

34368  
Registration Number, if applicable

1725 Duke Street, Suite 650  
Address

Alexandria, VA 22314  
Address

- Enclosure ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ \_\_\_\_\_

## **CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

February 2, 2005  
Date

  
Signature

Brandi Franklin  
Typed or printed name of person signing certificate

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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

February 2, 2005

Date



Signature

34368

Registration Number, if applicable

Randy W Lacasse

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

We recently received a Notice of Abandonment for the above cited case. It was determined that the above application had become abandoned for failure to submit a response to an outstanding office action. Applicant's representative is establishing unavoidable delay in submitting the required document based on docketing errors on or about June 7, 2004. The Assistant Manager of Administrative Services was adequately trained to perform the duties of collecting the office mail, specifically U.S.P.T.O. mail for entering into the office database system for tracking USPTO correspondence. Said Assistant Manager performed these duties on a regular basis for approximately 2 years without fail, therefore there was no reason to doubt competence. Upon receiving the abandonment notice, applicant's representative promptly initiated this request and has included the required response.

Applicant's representative respectfully requests that the above application be revived and the Petition for Unavoidable Delay be granted. Authorization to charge the required fees is being given on the attached Fee Transmittal.

(Please attach additional sheets if additional space is needed.)

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